

OREGON DEPARTMENT OF TRANSPORTATION
RAIL DIVISION SUPPLEMENTAL RESPONSE TO THE U.S. ENVIRONMENTAL
PROTECTION AGENCY 104(E) LETTER
April 2, 2012

This document contains all of the information from the August 15, 2008 Oregon Department of Transportation (ODOT) Rail Division (Rail Division) response to the U.S. Environmental Protection Agency (EPA). The determination was made that combining information from the August 15, 2008 submittal with the additional files and information in this Rail Division submittal is the clearest manner in which to present the information. Note that the exhibit names have changed from the August 15, 2008 submittal. This document corrects errors in some file names and exhibit references in the previous submission. This response includes updated information and new documents that were found after the August 15, 2008 response or describes events that occurred after that date. A DVD containing the files is provided with this response.

The following provides an overview of the documents contained within the Exhibits.

Exhibit A contains the Donation Contract, Quit Claim Deed, and associated files for the transfer of the Astoria Line and Portland Rail Cluster from Burlington Northern & Santa Fe Railway (BNSF) to the Rail Division.

Exhibit B contains files pertaining to leases, permits, acknowledgements and related correspondence between ODOT Rail Division and ExxonMobil Oil Corporation which has facilities adjacent to the Rail Division right of way (ROW).

Exhibit C contains copies of permits, agreements, and easements and the files associated with the granting of permits and agreements for crossings or appurtenances to the Rail Division ROW.

Exhibit D contains files associated with the appraisal of the 91.66 mile segment of the BNSF's Astoria Line ROW of which mile point (MP) 5.22 to 8.8 are within the Investigation Area.

Exhibit E contains a Phase I Environmental Assessment prepared for BNSF on 4/29/97 on the Rail Division ROW from Willbridge, OR to Tongue Point, OR. The portion of the Rail Division ROW within the Investigation Area is included.

Exhibit F contains files associated with a soil investigation on Rail Division ROW conducted by ACF Industries, Inc. in 2001-2004.

Exhibit G contains the legal description of the rail road ROW donated to the Rail Division.

Exhibit H contains maps of the Rail Division ROW within the Investigation Area.

Exhibit I contains the track profile.

Exhibit J contains the aerial photographs that the Rail Division has on file.

Exhibit K contains inspection reports for inspections conducted on the Rail Division ROW.

Exhibit L contains ODOT's Record Retention Policy.

Section 1.0 Respondent Information

Question #1

Provide the full legal, registered name and mailing address of Respondent.

Matthew Garrett, Director
Oregon Department of Transportation
355 Capitol St. NE, Salem, OR 97301-3871

Question #2

For each person answering these questions on behalf of Respondent provide:

a. full name; b. title; c. business address; and d. business telephone number, electronic mail address, and FAX machine number.

Name	Title	Business Address	Business Telephone	Email Address	Fax Machine
Michael Eyer (b) (6)	Hazardous Materials Specialist	NA	NA	NA	NA
Roger Galles	Senior Surveyor	123 NW Flanders St. Portland, OR 97209	(503) 731-3241	roger.l.galles@odot.state.or.us	(503) 986-8531
Cary Goodman	Rail Program Coordinator	555 13th St, NE, Suite 3 Salem, OR 97301	(503) 986-4230	cary.goodman@odot.state.or.us	(503) 986-3183
John Johnson	Rail Safety Manager	555 13th St, NE, Suite 3 Salem, OR 97301	(503) 986-4094	john.r.johnson@odot.state.or.us	(503) 986-3183
Charles Kettenring (b) (6)	Crossing Safety Manager	NA	NA	NA	NA
Kathy Lincoln	Assistant Attorney General	1162 Court St. NE Salem OR 97301-4096	(503) 947-4527	kathy.lincoln@state.or.us	(503) 378-6829
Bob Melbo	State Rail Planner	555 13th St, NE, Suite 3 Salem, OR 97301	(503) 986-4137	robert.i.melbo@odot.state.or.us	(503) 986-3183

Jennifer Sellers	Environmental Program Manager	123 NW Flanders St. Portland, OR 97209	(503) 731-8523	jennifer.sellers@odot.state.or.us	(503) 986-8531
Kelly Taylor (b) (6)	Rail Division Administrator	NA	NA	NA	NA

Question #3

If Respondent wishes to designate an individual for all future correspondence concerning this Site, please indicate here by providing that individual's name, address, telephone number, fax number, and, if available, electronic mail address.

John Johnson, Rail Safety Manager,
Oregon Department of Transportation,
555 13th St. NE Suite 3, Salem, OR 97301-4179;
(phone); 503.986.4094
(fax); 503.986.3183
Email; john.r.johnson@odot.state.or.us

Section 2.0 Owner/Operator Information

Question #4

Identify each and every Property that Respondent currently owns, leases, operates on, or otherwise is affiliated or historically has owned, leased, operated on, or otherwise been affiliated with within the Investigation Area during the period of investigation (1939 - Present) Please note this question includes state roads, state rights of way or easements, and state bridges. Please note that this question includes any aquatic lands owned or leased by Respondent.

Historically, BNSF owned and operated a railroad line between Portland and Astoria. (Predecessor to BNSF was the Spokane, Portland & Seattle Railway [SP&S].) On 7/12/97, BNSF sold the railroad track, related appurtenances, and its common carrier transportation business to the Portland & Western Railroad (PNWR). On 11/14/97, BNSF conveyed its railroad right-of-way between Portland and Astoria to the State of Oregon, subject to the exclusive rail service easement for PNWR. The files pertaining to this transfer are in Exhibit A. Exhibit A contains the donation deeds and associated files.

Approximately 3.6 miles (rail mile post [MP] 5.22 to 8.8) of the railroad ROW is within the Investigation Area. On 9/16/09 BNSF executed a correction quit claim deed to correct property description discrepancies. None of the discrepancies involve the railroad ROW within the Investigation Area. This response addresses only ODOT's rail line within the Investigation Area and all responses relate to only that portion of ODOT's property within the Investigation Area although some of the files and maps may show or discuss portions of the rail line outside of the Investigation Area in addition to the area that is

within. Separate 104(e) and supplemental responses have been sent to the EPA that address highway related property of ODOT.

Question #5

Provide a brief summary of Respondent's relationship to each Property listed in response to Question 4 above, including the address, Multnomah County Alternative Tax lot Identification number(s), dates of acquisition, period of ownership, lease, operation, or affiliation, and a brief overview of Respondent's activities at the Properties identified.

Since the above-mentioned conveyance date, the State has been the owner of the underlying right-of-way. PNWR has owned the track and related appurtenances since 7/12/97 and PNWR has conducted its railroad business thereupon. A description of the State-owned railroad ROW within the Investigation Area is attached to the Quit Claim deed included within the materials of Exhibit A.

Question #6

Identify any persons who concurrently with you exercises or exercised actual control or who held significant authority to control activities at each Property, including:

6a

Partners or joint ventures;

Not applicable.

6b

Any contractor, sub contractor, or licensor that exercised control over any materials handling, storage, or disposal activity on the Property; (service contractors, remediation contractors, management and operator contractors, licensor providing technical support to licensed activities);

PNWR owns the railroad track and related appurtenances, and operates its common carrier transportation business on this track.

6c

Any person subleasing land, equipment or space on the Property;

ExxonMobil leases approximately 1,520 square feet of land from ODOT to maintain a walkway (MP 6.75 to 6.81). Exhibit B contains files pertaining to the ExxonMobil lease

6d 1

Utilities, pipelines, railroads and any other person with activities and/or easements regarding the Property;

ODOT has issued permits or acknowledgements of some interest to entities for various encroachments on the ODOT ROW. All utility permits and easements that ODOT has on file are provided in Exhibit C.

6d 2

Utilities, pipelines, railroads and any other person with activities and/or easements regarding the Property;

ODOT has issued permits or easements to entities for various types of pipelines on the ODOT ROW. All pipeline permits that ODOT has on file are provided in Exhibit C.

6d 3

Utilities, pipelines, railroads and any other person with activities and/or easements regarding the Property;

All permits and agreements that ODOT has on file for railroads or any other person with activities and/or easements regarding the Rail Division property within the Investigation Area are in Exhibit C.

6e

Major financiers and lenders;

Not applicable.

6f

Any person who exercised actual control over any activities or operations on the Property;

PNWR,
BNSF, and
SP&S, and its predecessors.
See Exhibit C.

6g

Any person who held significant authority to control any activities or operations on the Property;

PNWR,
BNSF, and
SP&S, or its predecessors.

6h

Any person who had a significant presence or who conducted significant activities at the Property; and

PNWR,
BNSF, and
SP&S, and its predecessors.

Government entities that had proprietary (as opposed to regulatory) interest or involvement with regard to the activity on the Property.

State of Oregon (ODOT).

Question #7

Identify and describe any legal or equitable interest that you now have, or previously had in each Property. Include information regarding the nature of such interest; when, how, and from whom such interest was obtained; and when, how, and to whom such interest was conveyed, if applicable. In addition, submit copies of all instruments evidencing the acquisition or conveyance of such interest (e.g., deeds, leases, purchase and sale agreements, partnership agreements, etc.).

Since the donation of the property from BNSF, the State has been the owner of the underlying ROW, PNWR has owned the track and related appurtenances, and PNWR has conducted its railroad business thereupon. A description of the State-owned railroad ROW within the Investigation Area is included within the attached copy of the Quit Claim Deed and the donation contract.
See Exhibit A.

The appraisal of the 91.66 mile segment of the BNSF's Astoria Line ROW is located in Exhibit D.

Question #8

If you are the current owner and/or current operator, did you acquire or operate the Property or any portion of the Property after the disposal or placement of hazardous substances, waste, or materials on, or at the Property? Describe all of the facts on which you base the answer to this question.

To the best of ODOT's knowledge, no disposal or placement of hazardous substances, waste, or materials has occurred on the property since ODOT acquired ownership.

ODOT has no knowledge of disposal or placement of hazardous substances, waste, or materials on the property in the years before ODOT obtained possession in 1997. A consultant for BNSF prepared a Phase I Environmental Assessment for BNSF on 4/29/97. The Phase I concluded that as a general observation, the petroleum and agrichemical storage facilities appeared to have minimal, if any, releases. Most aboveground storage tanks have secondary containment. Based on visual observation, no locations along the Willbridge, Oregon to Tongue Point, Oregon line were identified as representing significant potential environmental concerns. Exhibit E contains the Phase I Environmental Assessment.

As part of the Portland Harbor Sediment Investigation, consultants for an adjacent property owner (ACF Industries, Inc., 12160 NW St. Helens Road) collected soil samples in 2001 and 2004 and then excavated soil in 2006. Some of the soil was on railroad ROW,

between rail mileposts 7.75 and 8.25. Exhibit F contains files associated with this soil investigation.

Question #9

At the time you acquired or operated the Property, did you know or have reason to know that any hazardous substance, waste, or material was disposed of on, or at the Property? Describe all investigations of the Property you undertook prior to acquiring the Property and all of the facts on which you base the answer to this question.

See response to question #8, above

Question #10

Identify all prior owners that you are aware of for each Property identified in Response to Question 4 above. For each prior owner, further identify, if known, and provide copies of documents you may have:

BNSF,
SP&S, and predecessors.

10 a

The dates of ownership;

State of Oregon acquired the property on 11/14/97 from BNSF.
See Exhibit A.

10 b

All evidence showing that they controlled access to the Property; and

See Exhibit A.

10 c

All evidence that a hazardous substance, pollutant, or contaminant, was released or threatened to be released at the Property during the period that they owned the Property.

See response to question #8, above

Question #11

Identify all prior operators of the Property, including lessors, you are aware of for each Property identified in response to Question 4 above. For each such operator, further identify if known, and provide copies of documents you may have:

BNSF and SP&S, and predecessors operated the rail service. Many parties have easements, leases, or permits that allow them to perform various activities on the property pursuant to their agreement with the landowner. Copies of those documents are in Exhibits B and C.

11 a

The dates of ownership

Unknown until Nov. 14, 1997.

11 b

The nature of prior operations at the Property;

The prior operations at the property were primarily railroad operations.

11 c

All evidence that they controlled access to the Property; and

See Exhibit A.

11 d

All evidence that a hazardous substance, pollutant, or contaminant was released or threatened to be released at or from the Property during the period that they were operating the Property.

Unknown.

Question #12

If not included in response to any of the previous questions, please describe the purpose and duration of each aquatic lands lease Respondent or the operator of Respondent's Property(ies) ever obtained from the State of Oregon and provide a copy of each application for and aquatic lands lease obtained.

This property is not adjacent to or over the Willamette River.

Section 3.0 Description of Each Property

Question #13

Provide the following information about each Property identified in response to Question 4:

13 a

Property boundaries, including a written legal description;

Exhibits A and G contain the legal description.

13 b

Location of underground utilities (telephone, electrical, sewer, water main, etc.);

Exhibit C contains permits granted for underground utilities. These provide the legal description and location.

The ROW maps show the location of some utilities. See Exhibit H.

13 c

Location of all underground pipelines whether or not owned, controlled or operated by you;

Exhibit C contains permits granted for underground pipelines. These provide the legal description and location.

The ROW maps show the location of some underground pipelines. See Exhibit H.

13 d

Surface structures (e.g., building, tanks, pipelines, etc.);

Portland & Western Railroad has a building at Linnton. If the lessees and other permittees have various structures and over head pipelines they will be described in the documents included in Exhibit C.

13 e

Over-water structures (e.g., piers, docks, cranes, etc);

None.

13 f

Dry wells;

None, to the best of our knowledge.

13 g

Treatment or control devices (e.g., surface water, air, groundwater, Resource Conservation and Recovery Act (RCRA), Transfer, Storage, or Disposal (TSD), etc.);

None, to the best of our knowledge.

13 h

Groundwater wells, including drill logs;

None, to the best of our knowledge.

13 i

Storm water drainage system, and sanitary sewer system, past and present, including septic tank(s) and where, when and how such systems are emptied and maintained;

Exhibit B contains information about existing pipelines, appurtenances, and sewer lines located in railroad ROW within the premises leased by ExxonMobil.

Exhibit C contains the permits for any stormwater and sanitary sewer systems within the ROW.

If any sanitary sewer system or septic tanks are present, they may be shown on the ROW maps located in Exhibit H.

The LS 440 Track Construction (track profile) documents found in Exhibit I and some of the ROW maps in Exhibit H show the storm drainage system for the tracks.

13 j

Subsurface disposal field(s), Underground Injection Control (UIC) wells, and other underground structures (e.g., underground storage tanks (USTs)); and where they are located, if they are still used, and how they were closed;

None, to the best of our knowledge.

13 k

Any and all major additions, demolitions or changes on, under or about the Property, its physical structures or to the property itself (e.g., stormwater drainage, excavation work); and any planned additions, demolitions or other changes to the Property;

None, to the best of our knowledge.

13 l

All maps and drawings of the Property in your possession; and

Exhibit H contains ROW maps.

Exhibit I contains the track profile.

13 m

All aerial photographs of the Property in your possession.

The aerial photographs of the property in the ODOT files are provided in Exhibit J

Question #14

For Properties adjacent to the Willamette River, provide specific information describing the river-ward boundary of private ownership and where state aquatic lands and/or state management jurisdiction begins. Provide a map that delineates the river-ward boundary of each Property.

Not applicable.

Question #15

For each Property, provide all reports, information or data you have related to soil, water (ground and surface), or air quality and geology/hydrogeology at and about each Property. Provide copies of all documents containing such data and information, including both past and current aerial photographs as well as documents containing analysis or interpretation of such data.

Exhibit E contains a Phase I Environmental Assessment that was prepared for BNSF on 4/29/97, which contains data related to soil.

As part of the Portland Harbor Sediment Investigation, consultants for an adjacent property owner (ACF Industries, Inc., 12160 NW St. Helens Road) collected soil samples in 2001 and 2004 and then excavated soil in 2006. Some of the soil was on railroad ROW, between rail mileposts 7.75 and 8.25. Exhibit F contains files associated with this soil investigation.

Question #16

Identify all past and present solid waste management units or areas where materials are or were in the past managed, treated or disposed (e.g., waste piles, landfills, surface impoundments, waste lagoons, waste ponds or pits, tanks, container storage areas, etc.) on each Property. For each such unit or area, provide the following information:

None, to the best of our knowledge.

16 a

A map showing the unit/area's boundaries and the location of all known units/areas whether currently in operation or not. This map should be drawn to scale, if possible, and clearly indicate the location and size of all past and present units/areas;

Not applicable.

16 b

Dated aerial photograph of the site showing each unit/area;

Not applicable.

16 c

The type of unit/area (e.g., storage area, landfill, waste pile, etc.), and the dimensions of the unit/area;

Not applicable.

16 d

The dates that the unit/area was in use;

Not applicable.

16 e

The purpose and past usage (e.g., storage area, spill containment, etc.).

Not applicable.

16 f

The quantity and types of materials (hazardous substances and any other chemicals) located in each unit/area, and;

Not applicable.

16 g

The construction (materials, composition), volume, size, dates of cleaning, and condition of each unit/area.

Not applicable.

Question #17

If the unit/area described above is no longer in use, how was such unit/area closed and what actions were taken to prevent or address potential or actual releases of waste constituents for the unit/area.

Not applicable.

Question #18

For each Property, provide the following information regarding any current or former sewer or storm sewer lines or combined sanitary/storm sewer lines, drains, ditches, or tributaries discharging into the Willamette River:

The Rail Division does not have a comprehensive knowledge of the drainage off of the ROW. The files are very old and often difficult to read. All information that ODOT Rail Division has on file to respond to this question is found in Exhibits B, C, H and I.

18 a

The location and nature of each line, drain, ditch, or tributary;

The Rail Division does not have a comprehensive knowledge of the drainage off of the ROW. The files are very old and often difficult to read. All information that ODOT Rail Division has on file to respond to this question is found in Exhibits B, C, H and I.

18 b

The date of construction of each sewer line, drain, ditch, or tributary;

All information that ODOT Rail Division has on file to respond to this question is found in Exhibits B, C, H and I.

18 c

Whether each sewer line, or drain was ever connected to a main trunk line;

All information that ODOT Rail Division has on file to respond to this question is found in Exhibits B, C, H and I.

18 d

Whether each sewer line, drain, ditch, or tributary drained any hazardous substance, waste, material or other process residue to the Willamette River; and

All information that ODOT Rail Division has on file to respond to this question is found in Exhibits B, C, H and I

18 e

Provide any documentation regarding but not limited to the following on any and all outfalls to the Willamette River which are located within the boundaries of the Property(ies). Your response should include, but not be limited to:

- i. The areas serviced by the outfalls; and
- ii. The type of outfalls (i.e., storm water or single facility operational)

No outfalls are located on the Property.

Question #19

Provide copies of any stormwater or property drainage studies, including data from sampling, conducted at these Properties on stormwater, sheet flow, or surface water runoff. Also provide copies of any Stormwater Pollution Prevention or Maintenance Plans or Spill Plans developed for different operations during the Respondent's operation of each Property.

None, to the best of our knowledge.

Section 4.0 Respondent's Operational Activities

Question #20

Describe the nature of your operations or business activities at each Property. This question includes all operation and maintenance activities within the Investigation Area that Respondent has conducted on state roads, state rights of way or easements, bridges, or any other areas within the Investigation Area where Respondent has conducted any type of operation or maintenance activities. If the operation or business activity changed over time, please identify each separate operation or activity, the dates when each operation or activity was started and, if applicable, ceased.

The State of Oregon became the owner of the underlying right-of-way on 11/14/97. The State performs no operations or business activities on the property. PNWR has operated their railroad on the property since 7/12/97 and is responsible for maintenance of the rail

facilities, including tracks, crossing facilities, culverts, bridges, etc. PNWR operated a Lewis and Clark excursion train owned by the State in 2003, 2004, and 2005.

The State manages leases and permits, according to the terms of the various documents. See Exhibits B and C.

Question #21

At each Property, did you ever use, purchase, generate, store, treat, dispose, or otherwise handle any waste, or material? If the answer to the preceding question is anything but an unqualified "no," identify:

The State of Oregon became the owner of the underlying ROW on 11/14/97. The State performs no operations or business activities on the property. PNWR has operated their railroad on the property since 7/12/97 PNWR has complete control over their daily operations. It is our understanding that PNWR sometimes transports tank cars containing anhydrous ammonia or chlorine dioxide. In addition, ExxonMobil operates and maintains gas, diesel, and oil pipelines across the railroad ROW between railroad mileposts 6 and 7. See Exhibit B, which contains files associated with the ExxonMobil agreements.

21 a

In general terms, the nature and quantity of the waste or material so transported, used, purchased, generated, stored, treated, disposed, or otherwise handled;

ODOT does not have access to that information.

21 b

The chemical composition, characteristics, physical state (e.g., solid, liquid) of each waste or material so transported, used, purchased, generated, stored, treated, disposed, or otherwise handled.

ODOT does not have that information.

21 c

How each such waste or material was used, purchased, generated, stored, treated, transported, disposed or otherwise handled by you;

Not applicable to ODOT

21 d

The quantity of each such waste or material used, purchased, generated, stored, treated, transported, disposed or otherwise handled by you;

Not applicable to ODOT.

21 e

Describe in detail your handling and use of asphalt shingle material on state roads, rights of way or easements, bridges, or any other property or area within the Investigation Area, including, all information requested in subsections b., c., d., of this Question; and

No asphalt shingle material was used on the ODOT Rail Division property.

21 f

Describe how state road bridges in the Investigation Area are maintained, painted, or otherwise repaired and what types of best management practices may have been employed over time to minimize releases or discharges of material to the Willamette River during such bridge work.

Not applicable to this response. See the ODOT Highway Division response.

Question #22

Describe all activities at each Property that were conducted over, on, or adjacent to, the Willamette River. Include in your description whether the activity involved hazardous substances, waste, or materials and whether any such hazardous substances, waste, or materials were discharged, spilled, disposed of, dropped, or otherwise came to be located in the Willamette River.

None of the Rail Division property is over, on, or directly adjacent to the Willamette River.

Question #23

For each property at which there was or is a mooring facility, dock, wharf or any over-water structure, provide a summary of over water activities conducted at the structure, including but not limited to, any material loading and unloading operations associated with vessels, materials handling and storage practices, ship berthing and anchoring, ship fueling, and ship building, retrofitting, maintenance, and repair.

Not applicable.

Question #24

Describe all activities conducted on leased aquatic lands at each Property. Include in your description whether the activity involved hazardous substances, waste, or materials and whether any such hazardous substances, waste, or materials were discharged, spilled, disposed of, dropped, or otherwise came to be located on such leased aquatic lands.

Not applicable.

Question #25

Please describe the years of use, purpose, quantity, and duration of any application of pesticides or herbicides on each Property during the period of investigation (1937 to the present). Provide the brand name of all pesticides or herbicides used.

ODOT does not maintain the rail line. ODOT does not have information on file regarding herbicide use on the ROW by BNSF or PNWR or their predecessors.

Question #26

Describe how wastes transported off the Property for disposal are and ever were handled stored, and/or treated prior to transport to the disposal facility.

Unknown.

Question #27

Has Respondent ever arranged for disposal or treatment or arranged for transportation for disposal or treatment of materials to any Property (including the Willamette River) within the Investigation Area? If so, please identify every Property that Respondent's materials were disposed or treated at in the Investigation Area. In addition, identify:

The Rail Division has never arranged for disposal or treatment or arranged for transportation for disposal or treatment of materials to any Property (including the Willamette River) within the Investigation Area.

27 a

The persons with whom the Respondent made such arrangements;

Not applicable.

27 b

Every date on which Respondent made such arrangements;

Not applicable.

27 c

The nature, including the chemical content, characteristics, physical state (e.g., solid, liquid) and quantity (volume and weight) of all materials involved in each such arrangement;

Not applicable.

27 d

In general terms, the nature and quantity of the non-hazardous materials involved in each such arrangement;

Not applicable.

27 e

In general terms, the nature and quantity of any hazardous materials involved in each such arrangement;

Not applicable.

27 f

The owner of the materials involved in each such arrangement, if not Respondent;

Not applicable.

27 g

All tests, analyses, analytical results or manifest concerning each hazardous material involved in such transactions;

Not applicable.

27 h

The address(es) for each Property precise locations at which each material involved in such transactions actually was disposed or treated;

Not applicable.

27 i

The owner or operator of each facility at which hazardous or non-hazardous materials were arranged to be disposed at within the Investigation Area;

Not applicable.

27 j

Who selected the location to which the materials were to be disposed or treated;

Not applicable.

27 k

Who selected the Property as the location at which hazardous materials were to be disposed or treated; and

Not applicable.

27 l

Any records of such arrangement and each shipment.

Not applicable.

Question #28

Describe the plants and other buildings or structures where Respondent carried out its operations at each Property within the Investigation Area (excluding locations for where ONLY clerical/office work was performed).

No operations are carried out by the Rail Division on the Property, except occasional activities necessary to manage leases and permits.

Question #29

Provide a schematic diagram or flow chart that fully describes and/or illustrates the Respondent's operations on each Property.

Not applicable.

Question #30

Provide a brief description of the nature of Respondent's operations at each location on each Property including:

None.

30 a

The date such operations commenced and concluded; and

Not applicable.

30 b

The types of work performed at each location, including but not limited to the industrial, chemical, or institutional processes undertaken at each location.

Not applicable.

Question #31

If the nature or size of Respondent's operations changed over time, describe those changes and the dates they occurred.

Not applicable.

Question #32

List raw materials used in Respondent's operations, the products manufactured, recycled, recovered, treated, or otherwise processed in these questions.

Not applicable.

Question #33

Provide copies of Material Safety Data Sheets (MSDS) for materials used in the Respondent's operations.

Not applicable.

Question #34

Describe the cleaning and maintenance of the equipment and machinery involved in these operations, including but not limited to:

Not applicable.

34 a

The types of materials used to clean/maintain this equipment/machinery;

Not applicable.

34 b

The monthly or annual quantity of each such material used;

Not applicable.

34 c

The types of materials spilled in Respondent's operations;

Not applicable.

34 d

The materials used to clean up those spills;

Not applicable.

34 e

The methods used to clean up those spills; and

Not applicable.

34 f

Where the materials used to clean up those spills were disposed of.

Not applicable.

Question #35

Describe the methods used to clean up spills of liquid or solid materials during Respondent's operation.

Not applicable.

Question #36

For each type of waste (including by-products) from Respondent's operations, including but not limited to all liquids, sludges, and solids, provide the following information:

Not applicable.

36 a

Its physical state;

Not applicable.

36 b

Its nature and chemical composition;

Not applicable.

36 c

Its color;

Not applicable.

36 d

Its odor;

Not applicable.

36 e

The approximate monthly and annual volumes of each type of waste (using such measurements as gallons, cubic yards, pounds, etc.); and

Not applicable.

36 f

The dates (beginning & ending) during which each type of waste was produced by Respondent's operations.

Not applicable.

Question #37

Provide a schematic diagram that indicates which part of Respondent's operations generated each type of waste, including but not limited to wastes generated by cleaning and maintenance of equipment and machinery and wastes resulting from spills of liquid materials.

Not applicable.

Question #38

Identify all individuals who currently have and those who have had responsibility for Respondent's environmental matters (e.g. responsibility for the disposal, treatment, storage, recycling, or sale of Respondent's wastes). Also provide each individual's job title, duties, dates performing those duties, supervisors for those duties, current position or the date of the individual's resignation, and the nature of the information possessed by such individuals concerning Respondent's waste management.

Not applicable.

Question #39

For each type of waste describe Respondent's contracts, agreements, or other arrangements for its disposal, treatment, or recycling.

Not applicable.

Question #40

Provide copies of such contracts and other documents reflecting such agreements or arrangements.

Not applicable.

40 a

State where Respondent sent each type of its waste for disposal, treatment, or recycling.

Not applicable.

40 b

Identify all entities and individuals who picked up waste from Respondent or who otherwise transported the waste away from Respondent's operations (these companies and individuals shall be called "Waste Carriers" for purposes of this Information Request).

Not applicable.

40 c

If Respondent transported any of its waste away from its operations, please so indicate.

Not applicable.

40 d

For each type of waste specify which Waste Carrier picked it up.

Not applicable.

40 e

Indicate the ultimate disposal/recycling/treatment location for each type of waste.

Not applicable.

40 f

Provide all documents indicating the ultimate disposal/recycling/treatment location for each type of waste.

Not applicable.

40 g

State the basis for and provide any documents supporting the answer to the previous question.

Not applicable.

Question #41

Describe all wastes disposed by Respondent into Respondent's drains including but not limited to:

41 a

The nature and chemical composition of each type of waste;

Not applicable.

41 b

The dates on which those wastes were disposed;

Not applicable.

41 c

The approximate quantity of those wastes disposed by month and year;

Not applicable.

41 d

The location to which these wastes drained (e.g. septic system or storage tank at the Property, pre-treatment plant, Publicly Owned Treatment Works (POTW), etc.; and

Not applicable.

41 e

Whether and what pretreatment was provided.

Not applicable.

Question #42

Identify any sewage authority or treatment works to which Respondent's waste was sent.

Not applicable.

Question #43

Describe all settling tank, septic system, or pretreatment system sludges or other treatment wastes resulting from Respondent's operations.

Not applicable.

Question #44

If applicable, describe the facilities, processes and methods Respondent or Respondent's contractor used, and activities engaged in, either currently or in the past, related to ship building, retrofitting, maintenance or repair, including, but not limited to, dry docking operations, tank cleaning, painting and re-powering.

Not applicable.

Question #45

Describe any hazardous substances, wastes, or materials used or generated by the activities described in response to the previous Question and how these hazardous substances, materials and wastes were released or disposed of.

Not applicable.

Question #46

Provide copies of any records you have in your possession, custody or control relative to the activities described in response to the previous two Questions.

Not applicable.

Question #47

Describe any process or activity conducted on a Property identified in response to Question 4 involving the acquisition, manufacture, use, storage, handling, disposal or release or threatened release of polychlorinated biphenyl(s) ("PCB(s)" or PCB(s))-containing materials or liquids.

To the best of our knowledge, no such activities are conducted on the property.

Question #48

For each process or activity identified in response to the previous Question, describe the dates and duration of the activity or process and the quantity and type of PCB(s) or PCB(s) containing materials or liquids.

Not applicable.

Question #49

For each process or activity identified in response to the previous two Questions, identify the location of the process or activity on the Property.

Not applicable.

Section 5.0 Regulatory Information

Question #50

Identify all federal, state and local authorities that regulated owner or operator of each Property and/or that interacted with the owner or operator of each Property. Your response is to address all interactions and in particular all contacts from agencies/departments that dealt with health and safety issues and environmental concerns.

- The Federal Railroad Administration and Rail Division conduct track and walkway inspections. Exhibit K contains inspection reports for inspections conducted on the Rail Division ROW.
- Oregon State Department of Environmental Quality (soil sampling and excavation, ACF Industries, Inc., 12160 NW St. Helens Road, (See Exhibit F).

Question #51

Describe all occurrences associated with violations, citations, deficiencies, and/or accidents concerning each Property during the period being investigated. Provide copies of all documents associated with each occurrence described. [Note: this question is not limited to environmental or waste occurrences.]

The Rail Division has no record of violations, citations, deficiencies, or accidents. The Rail Division has a record of contaminated soil. See Exhibits E and F.

Question #52

Provide a list of all local, state and federal environmental permits ever issued to the owner or operator on each Property (e.g., RCRA permits, NPDES permits, etc.). Please provide a copy of each federal and state permit, and the applications for each permit, ever issued to the owner or operator on each Property.

Not applicable.

Question #53

Did the owner or operator ever file a Hazardous Waste Activity Notification under the RCRA? If so, provide a copy of such notification.

No, to the best of our knowledge.

Question #54

Did the owner or operator's facility on each Property ever have "interim status" under the RCRA? If so, and the facility does not currently have interim status; describe the circumstances under which the facility lost interim status.

No, to the best of our knowledge.

Question #55

Provide all RCRA Identification Numbers issued to Respondent by EPA or a state for Respondent's operations.

Not applicable.

Question #56

Identify all federal offices to which Respondent has sent or filed hazardous substance or hazardous waste information. State the years during which such information was sent/filed.

Not applicable.

Question #57

Identify all state offices to which Respondent has sent or filed hazardous substance or hazardous waste information. State the years during which such information was sent/filed.

Not applicable.

Question #58

List all federal and state laws and regulations under which Respondent has reported to federal or state governments, including but not limited to: Toxic Substance Control Act, 15 U.S.C. Sections 2601 et seq., (TSCA); Emergency Planning and Community Right-to-Know Act, 42 U.S.C. Sections 1101 et seq., (EPCRA); and the Clean Water Act (the Water Pollution Prevention and Control Act), 33 U.S.C. Sections 1251 et seq., Oregon Hazardous Substance Remedial Action Law, ORS 465.315, Oregon Water Quality law, ORS Chapter 468(b), Oregon Hazardous Waste and Hazardous Materials law, Chapters 465 and 466, or Oregon Solid Waste law, ORS Chapter 459. Provide copies of each report made, or if only oral reporting was required, identify the federal and state office to which such report was made.

No reports have been made by the Rail Division.

Question #59

Provide a copy of any registrations, notifications, inspections or reports required by the Toxic Substance Control Act, 15 USC § 2601 et seq., or state law, to be maintained or submitted to any government agency, including fire marshal(s), relating to PCB(s) or PCB(s) containing materials or liquids on any Property identified in response to Question 4.

No registrations, notifications, inspections or reports required by the TSCA have been made by the Rail Division for the property addressed in this response.

Question #60

Has Respondent or Respondent's contractors, lessees, tenants, or agents ever contacted, provided notice to, or made a report to the Oregon Department of State Lands ("DSL") or any other state agency concerning an incident, accident, spill, release, or other event involving Respondent's leased state aquatic lands? If so, describe each incident, accident, spill, release, or other event and provide copies of all communications between Respondent or its agents and DSL or other state agency and all documents that were exchanged between Respondent, its agents and DSL or other state agency.

No, to the best of our knowledge.

Question #61

Describe all notice or reporting requirements to DSL that you had under an aquatic lands lease or state law or regulation regarding incidents affecting, or activities or operations occurring on leased aquatic lands. Include the nature of the matter required to be reported and the office or official to whom the notice or report went to. Provide copies of all such notices or reports.

Not applicable.

Section 6.0 Releases and Remediation

Question #62

Identify all leaks, spills, or releases into the environment of any waste including petroleum, hazardous substances, pollutants, or contaminants, that have occurred at or from each Property, which includes any aquatic lands owned or leased by Respondent and state roads, state rights of way or easements, state bridges, or any other area with the Investigation Area where Respondent conducted operation or maintenance activities. In addition, identify and provide copies of documents regarding:

The Rail Division has no record of leaks, spills or releases into the environment.
However, the Rail Division has a record of contaminated soil. See Exhibits E and F.

62 a

When such releases occurred;

Not applicable.

62 b

How the releases occurred (e.g. when the substances were being stored, delivered by a vendor, transported or transferred (to or from any tanks, drums, barrels, or recovery units) and treated).

Not applicable.

62 c

The amount of each hazardous substances, pollutants, or contaminants so released;

Not applicable.

62 d

Where such releases occurred;

Not applicable.

62 e

Any and all activities undertaken in response to each such release or threatened release, including the notification of any agencies or governmental units about the release.

Not applicable.

62 f

Any and all investigations of the circumstances, nature, extent or location of each release or threatened release including, the results of any soil, water (ground and surface), or air testing undertaken;

Not applicable.

62 g

All persons with information relating to these releases; and

Not applicable

62 h

List all local, state, or federal departments or agencies notified of the release, if applicable.

Not applicable.

Question #63

Was there ever a spill, leak, release or discharge of waste, including petroleum, or hazardous substances, pollutant or contaminant into any subsurface disposal system or floor drain inside or under a building on the Property? If the answer to the preceding question is anything but an unqualified "no", identify;

No, to the best of our knowledge.

63 a

Where the disposal system or floor drains were located;

Not applicable.

63 b

When the disposal system or floor drains were installed;

Not applicable.

63 c

Whether the disposal system or floor drains were connected to pipes;

Not applicable.

63 d

Where such pipes were located and emptied;

Not applicable.

63 e

When such pipes were installed;

Not applicable.

63 f

How and when such pipes were replaced, or repaired; and

Not applicable.

63 g

Whether such pipes ever leaked or in any way released such waste or hazardous substances into the environment.

Not applicable.

Question #64

Has any contaminated soil been excavated or removed from the Property? Unless the answer to the preceding question is anything besides and unequivocal "no", identify and provide copies of documents regarding:

Yes

64 a

Amount of soil excavated;

Three feet wide by two feet deep. See Exhibit F.

64 b

Location of excavation presented on map or aerial photograph:

See Exhibit F

64 c

Manner and place of disposal and/or storage of excavated soil;

Unknown. See Exhibit F.

64 d

Dates of soil excavation;

Approximately May 16, 2006. See Exhibit F.

64 e

Identity of persons who excavated or removed the soil, if other than a contractor for Respondent;

Phillips Environmental Services Corp. for ACF industries. See Exhibit F.

64 f

Reason for soil excavation;

Required by the Oregon Department of Environmental Quality (DEQ) as part of the Portland Harbor Superfund Sediment Investigation. See Exhibit F.

64 g

Whether the excavation or removed soil contained hazardous substances, pollutants or contaminants, including petroleum, what constituents the soil contained, and why the soil contained such constituents;

Unknown

64 h

All analyses or tests and results of analyses of the soil that was removed from the Property;

Unknown

64 i

All analyses or tests and results of analyses of the excavated area after the soil was removed from the Property and

Unknown

64 j

All persons, including contractors, with information about (a) through (i) of this request.

PNWR, Phillips Environmental Services Corp., DEQ

Question #65

Have you ever tested the groundwater under your Property? If so, please provide copies of all data, analysis, and reports generated from such testing.

No.

Question #66

Have you treated, pumped, or taken any kind of response action on groundwater under your Property? Unless the answer to the preceding question is anything besides and unequivocal "no", identify and provide copies of documents regarding:

No.

66 a

Reason for groundwater action:

Not applicable.

66 b

Whether the groundwater contained hazardous substances, pollutants or contaminants, including petroleum, what constituents the groundwater contained, and why the groundwater contained such constituents;

Not applicable.

66 c

All analyses or tests and results of analyses of the groundwater;

Not applicable.

66 d

If the groundwater action has been completed, describe the basis for ending the groundwater action; and

Not applicable.

66 e

All persons, including contractors, with information about (a) through (c) of this request

Not applicable.

Question #67

Was there ever a spill, leak, release or discharge of a hazardous substance, waste, or material into the Willamette River from any equipment, structure or activity occurring on, over, or adjacent to the river? If the answer to the preceding question is anything but an unqualified "no", identify and provide copies of documents regarding:

No, to the best of our knowledge.

67 a

The nature of the hazardous substance, waste, or material spilled, leaked, released or discharged;

Not applicable.

67 b

The dates of each such occurrence;

Not applicable.

67 c

The amount and location of such release;

Not applicable.

67 d

Were sheens on the river created by the release;

Not applicable.

67 e

Was there ever a need to remove or dredge any solid waste, bulk product, or other material from the river as a result of the release? If so, please provide information and description of when such removal/dredging occurred, why, and where the removed/dredged materials were disposed.

Not applicable.

Question #68

For any releases or threatened release of PCB(s), identify the date, quantity, location and type of PCB(s) or PCB(s) containing materials or liquids, and the nature of any response to or cleanup of the release.

Not applicable.

Question #69

For any releases or threatened releases of PCB(s) and/or PCB(s) containing materials or liquids, identify the quantity and type of waste generated as a result of the release or threatened release, the disposition of the waste, provide any reports or records relating to the release or threatened release, the response or cleanup and any records relating to any enforcement proceeding relating to the release or threatened release.

Not applicable.

Question #70

Provide info and documentation concerning all inspections, evaluations, safety audits, correspondence and any other documents associated with the conditions, practices, and/or procedures at the Property concerning insurance issues or insurance coverage matters.

Not applicable.

Question #71

Describe the purpose for, the date of initiation and completion, and the results of any investigations of soil, water (ground or surface), sediment, geology, and hydrology or air quality on or about each Property. Provide copies of all data, reports, and other documents that were generated by you or a consultant, or a federal or state regulatory agency related to the investigations that are described.

As part of the Portland Harbor Sediment Investigation, consultants for an adjacent property owner (ACF Industries, Inc., 12160 NW St. Helens Road) collected soil samples in 2001 and 2004 and then excavated soil in 2006. Some of the soil was on Rail Division ROW between rail mileposts 7.75 and 8.25

Exhibit F contains files associated with this investigation.

A consultant for BNSF prepared a Phase I Environmental Assessment for BNSF on 4/29/97. The Phase I concluded that as a general observation, the petroleum and agrichemical storage facilities appeared to have minimal, if any, releases. Most aboveground storage tanks have secondary containment. Based on visual observation, no locations along the Willbridge, Oregon to Tongue Point, Oregon line were identified as representing significant potential environmental concerns.

(See Exhibit E)

Question #72

Describe any remediations or response actions you or your agents or consultants have ever taken on each Property either voluntarily or as required by any state or federal agency. If not otherwise already provided under this Information Request, provide copies of all investigations, risk assessments or risk evaluations, feasibility studies, alternatives analysis, implementation plans, decision documents, monitoring plans, maintenance plans, completion reports, or other document concerning remediation or response actions taken on each Property.

None.

Question #73

Have you sampled stormwater coming from state roads, state rights of way or easements, state bridges, or any other area within the Investigation Area where Respondent has conducted operation or maintenance activities? If you have sampled stormwater please provide copies of all sampling and analysis plans used, all data collected, and any analysis reports or other document that summarizes the results of such sampling.

Stormwater has not been sampled from the Rail Division ROW.

Question #74

Have you sampled soil or stormwater after placing asphalt shingle material on state roads, state rights of way or easements, state bridges, or any other area within the Investigation Area where Respondent has conducted operation or maintenance activities? If yes please provide copies of sampling and analysis plans used, all data collected, and any analysis reports or other document that summarizes the results of such sampling.

No asphalt shingle material was placed on Rail ROW within the Investigation Area.

Question #75

Are you or your consultants planning to perform any investigations of the soil, water (ground or surface), geology, and hydrology or air quality on or about the Property? If so, identify:

No investigations of the soil, water, geology, and hydrology or air quality associated with the Rail Division ROW are planned.

75 a

What the nature and scope of these investigations will be;

Not applicable.

75 b

The contractors or other person that will undertake these investigations;

Not applicable.

75 c

The purpose of the investigations;

Not applicable.

75 d

The dates when such investigations will take place and will be completed; and

Not applicable.

75 e

Where on the Property such investigations will take place.

Not applicable.

Question #76

Provide the following information, when applicable, about you and/or your business(es) that are associated with each Property identified in response to Question 4:

76 a

State the current legal ownership structure (e.g., corporation, sole proprietorship);

State of Oregon.

76 b

State the names and current addresses of current and past owners of the business entity or, if a corporation, current and past officers and directors;

State of Oregon is current owner.

76 c

Discuss all changes in the business' legal ownership structure, including any corporate successor ship, since the inception of the business entity. For example, a business that starts as a sole proprietorship, but then incorporates after a few years, or a business that is subsequently acquired by and merged into a successor. Please include the dates and the names of all parties involved;

No changes, State of Oregon.

76 d

The names and addresses of all current or past business entities or subsidiaries in which you or your business has had an interest that have had any operational or ownership connection with the Properties identified in response to Question 4. Briefly describe the business activities of each such identified business entities or subsidiaries; and

State of Oregon is current owner and has had no business affiliations with any other entities.

76 e

If your business formerly owned or operated a Property identified in response to Question 4, describe any arrangements made with successor owner or operators regarding liability for environmental contamination or property damage.

Not applicable.

Question #77

List all names under which your company or business has ever operated and has ever be incorporated. For each name, provide the following information:

77 a

Whether the company or business continues to exist, indicating the date and means by which it ceased operations (e.g., dissolution, bankruptcy, sale) if it no longer in business;

Yes, State of Oregon.

77 b

Names, addresses, and telephone numbers of all register agents, officers, and operations management personnel; and

Hal Guard, Interim Rail Division Administrator,
555 13th Street NE, Suite 3,
Salem, Oregon 97301-4179;
Phone 503-986-4077.

77 c

Names, addresses, and telephone numbers of all subsidiaries, unincorporated divisions or operating units, affiliates, and parent corporations if any, of the Respondent.

Not applicable.

Question #78

Provide all copies of the Respondent's authority to do business in Oregon. Include all authorizations, withdrawals, suspensions and reinstatements.

State of Oregon Constitution and laws.

Question #79

If Respondent is, or was at any time, a subsidiary of, otherwise owned or controlled by, or otherwise affiliated with another corporation or entity, then describe the full nature of each such corporate relationship, including but not limited to:

Not applicable.

79 a

A general statement of the nature of relationship, indicating whether or not the affiliated entity had, or exercised, any degree or control over the daily operations or decision-making of the Respondent's business operations at the Site;

Not applicable.

79 b

The dates such relationship existed;

Not applicable.

79 c

The percentage of ownership of Respondent that is held by such other entity(ies);

Zero.

79 d

For each such affiliated entity provide the names and complete address of its parent, subsidiary, and otherwise affiliated entities, as well as the names and addresses of each such affiliated entity's officers, directors, partners, trustees, beneficiaries, and/or shareholders owning more than five percent of that affiliated entity's stock;

No affiliates

79 e

Provide any and all insurance policies for such affiliated entity(ies) which may possibly cover the liabilities of the Respondent at each Property; and

Not applicable.

79 f

Provide any and all corporate financial information of such affiliated entities, including but not limited to total revenue or total sales, net income, depreciation, total assets and total current assts, total liabilities and total current liabilities, net working capital (or net current assets), and net worth.

Not applicable.

Question #80

If Respondent is a partnership, please describe the partnership and provide a history of the partnership's existence. Provide a list of all current and past partners of any status (e.g., general, limited, etc.) and provide copies of all documents that created, govern, and otherwise rules the partnership, including any amendments or modification to any of the originals of such documents, and at least five years of partnership meeting minutes.

Not applicable.

Question #81

Describe all sources reviewed or consulted in responding to this request, including, but not limited to:

81 a

The name and current job title of all individuals consulted;

Name	Title	Business Address	Business Telephone	Email Address	Fax Machine
Michael Eyer (b) (6)	Hazardous Materials Specialist	NA	NA	NA	NA
Cary Goodman	Rail Program Coordinator	555 13th St, NE, Suite 3 Salem, OR 97301	(503) 986-4230	cary.goodman@odot.state.or.us.	(503) 986-3183
John Johnson	Rail Safety Manager	555 13th St, NE, Suite 3 Salem, OR 97301	(503) 986-4094	john.r.johnson@odot.state.or.us	(503) 986-3183
Charles Kettenring (b) (6)	Crossing Safety Manager	NA	NA	NA	NA
Bob Melbo	State Rail Planner	555 13th St, NE, Suite 3 Salem, OR 97301	(503) 986-4137	robert.i.melbo@odot.state.or.us	(503) 986-3183
Kelly Taylor (b) (6)	Rail Division Administrator	NA	NA	NA	NA

81b

The location where all sources reviewed currently reside; and

See above table.

81c

The date consulted.

March 5, 2008; December 17, 2010; July 7, 2011, February and March 2012.

Question #82

If not already provided, identify and provide a last known address or phone number for all persons, including Respondent's current and former employees or agents, other than attorneys, who have knowledge or information about the generation, use, purchase, storage, disposal, placement, or other handling of hazardous materials at, or transportation of hazardous substances, waste, or materials to or from, each Property identified in response to Question 4.

To the best of our knowledge, the State of Oregon has never generated, used, purchased, stored, disposed, placed, or handled hazardous materials at, or transported hazardous substances, waste, or materials to or from this Property.

Question #83

If any documents solicited in this information request are no longer available, please indicate the reason why they are no longer available. If the records were destroyed, provide us with the following:

To the best of our knowledge, all known, applicable, and available information has been furnished.

83 a

The document retention policy between 1937 and present;

The ODOT document retention policy is found in Exhibit L.

83 b

The approximate date of destruction;

Not applicable.

83 c

A description of the type of information that would have been contained in the documents;

Not applicable

83 d

The name, job title and most current address known by you of the person(s) who would have produced these documents; the person(s) who would have been responsible for the retention of these documents; the person(s) who would have been responsible for destroying the documents; and the person(s) who had and /or still have the originals or copies of these documents; and

Not applicable.

83 e

The names and most current address of any person(s) who may possess documents relevant to this inquiry.

Not applicable.

Question #84

Provide a description of all records available to you that relate to all of the questions in this request, but which have not be included in your responses.

All known records have been provided.